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No. 82-124

In the Supreme Court of the United States

OCTOBER TERM, 1982

ANTHONY CHARLES ROSSANO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the evidence showed that at least five persons "conducted" an illegal gambling business, within the meaning of 18 U.S.C. 1955.

2. Whether the evidence proved the existence of an "enterprise" as required by 18 U.S.C. 1962(c).

3. Whether the evidence proved that the racketeering enterprise engaged in or affected interstate commerce.

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OPINION BELOW

The judgment order of the court of appeals (Pet. App. A2-A4) is not reported.

JURISDICTION

The judgment of the court of appeals was entered on May 14, 1982. A petition for rehearing was denied on June 15, 1982. The petition for a writ of certiorari was filed on July 21, 1982. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Eastern District of Pennsylvania, petitioner was convicted on one count of racketeering, in violation of 18 U.S.C. 1962(c) (count one), one count of conducting an illegal gambling business, in violation of 18 U.S.C. 1955 (count two), and one count of conspiracy to conduct an illegal gambling business, in violation of 18 U.S.C. 371 (count three). He was sentenced to two concurrent terms of two years' imprisonment, a concurrent term of one month's probation, and a $10,000 fine. The court of appeals affirmed by judgment order (Pet. App. A2-A4).

The evidence at trial established that from March 1979 to June 1980 petitioner and others regularly paid bribes to Jack Woodman and James Stinsman, who posed as corrupt policemen as part of an undercover investigation conducted by the Philadelphia Police Department and the Federal Bureau of Investigation. The bribes were paid in return for protection of an illegal gambling operation run by co-defendant Frank Narducci. Narducci operated a ziginette card game, which was played on a regular basis from Saturday until Sunday morning and again on Monday until early Tuesday. Ziginette is a card game played with the 8's, 9's, and 10's removed from the deck. The game rotated among several locations in the vicinity of 7th and Federal Streets in Philadelphia, including 1153 8th Street, 1214 7th Street, and 803 Latona Street.

Officers Woodman and Stinsman were investigating illegal gambling in South Philadelphia in the summer of 1978 when they were told that Narducci wanted to do business with them and that they could

make a lot of money by cooperating with him (1 Tr. 36, 40-41, 46-47). Woodman reported this to his commanding officer and to the FBI, and a joint investigation was begun (1 Tr. 56). Woodman agreed to wear a body recorder at any meetings and to record any telephone calls made in connection with the investigation (*ibid.*).

On November 2, 1978, Narducci met with Woodman and said that he wanted the police to "lay off" (Gov't Exh. 6R-1).

During patrol on Monday evening November 6, Woodman and Stinsman saw a large group of men leaving an alley on Federal Street and subsequently observed Narducci and two other men leaving a house at 1153 8th Street (2 Tr. 29; 4 Tr. 60). Within a few minutes, about 10 more men, including petitioner, left the rear of that house. The officers followed two of the men to 1214 7th Street, where they saw about 20 men inside and outside the house. Petitioner was seen standing at the door (2 Tr. 30; 4 Tr. 60-61). Officer Woodman saw John Grande standing in front of the house and told him to tell "Chickie" (Narducci) to "get that game out of Marie's house" (2 Tr. 31). Narducci complained that Woodman was harassing him, but Woodman replied that he was just doing his job and repeated his earlier warning (2 Tr. 31-34). As the officers were leaving, Grande held out some money and approached Stinsman, saying, "Here, let me take care of you." Stinsman responded, "Don't embarrass me," and the officers left (2 Tr. 34; 4 Tr. 62-63). The officers reported this incident to the FBI (2 Tr. 35).

On March 5, 1979, Woodman and Stinsman were again working in the same area when they saw Narducci and Grande leave a building at 803 Latona

Street. Grande walked up to the car window and said, "You aren't going to bother the game, are you?" Stinsman replied, "What game?" Grande then winked (2 Tr. 37-38; 4 Tr. 63-64). The officers watched the entrance of 803 Latona for the next hour and a half and observed about ten men, including petitioner, Narducci, Grande, and Al Mazzucca, enter and later leave the premises.

On the night of Monday, March 26, 1979, Woodman and Stinsman conducted a surveillance of 803 Latona and saw about 20 men enter in groups of two or three. The officers also observed Mazzucca leave and return about three times. On each occasion he came back with two or three men, knocked on the door, and then entered (2 Tr. 40; 4 Tr. 65). At about 12:45 a.m. the two officers, who were dressed in plain clothes, knocked on the door. Mazzucca opened the door and let them in. Inside they saw about 40 people gathered around a dining room table covered with cards and money. Mazzucca then looked more closely at the two police officers and shouted "Fuzz!" A commotion began, with people grabbing cards and money (2 Tr. 41; 4 Tr. 65-66).

Petitioner approached Woodman and asked to speak with him outside. Petitioner then suggested that the officers accept $50 from each person playing. When Woodman objected that "everyone inside would know his business," petitioner offered to pay Woodman $500 the following day in exchange for allowing the game to continue. Petitioner said, "Just you, me, and the 'Man' will know about it" (2 Tr. 41-43; 4 Tr. 66-68).

The next day Woodman and Stinsman arrived at petitioner's store and saw petitioner talking with Narducci. After Narducci left, petitioner approached the officers (2 Tr. 44-45; 4 Tr. 69). In a tape-

recorded conversation, petitioner detailed the arrangement he had proposed the night before. In return for monthly payments of $400 to be paid on the 27th of each month, the officers were to allow the ziginette game to go on undisturbed. Petitioner made it clear that he was representing Narducci and that all contact with the latter would be handled through him. Petitioner also said that if the officers had any information useful to Narducci, petitioner would try to get them some additional money (Gov't Exh. 7R-1). Petitioner gave them $500, and the officers agreed to the continuing arrangement (*ibid.*).

Each month thereafter until February 1980, Woodman and Stinsman met with petitioner at the store or at his home and received $400. On each occasion the officers recorded the conversation and turned the money over to the FBI (2 Tr. 46, 57, 79, 83, 89, 93, 99; 3 Tr. 11, 13, 23, 25, 30, 40; Gov't Exhs. 14-20, 22, 23, 25, 26, 28, 30).

On Saturday, July 14, 1979, the FBI raided 803 Latona Street (2 Tr. 86; 4 Tr. 131-132). Inside, they found about 20 men, several of whom were stuffing money into their pockets as the agents entered (4 Tr. 132-133). One agent stopped petitioner as he handed a large roll of money to his son (4 Tr. 134). The agents also discovered one man in the kitchen cooking hot dogs, and they found cases of napkins, paper plates, and plastic coffee cups (4 Tr. 133-135). They seized a dealing shoe and several other decks of cards that lacked 8's, 9's, and 10's (4 Tr. 135; Gov't Exhs. 1, 2A-2F). The agents also seized $150 from the dining room table, over $2,000 from Bernard Malseed, $1400 from Joseph Pisano, and nearly $8,000 from petitioner (4 Tr. 136-137; Gov't Exhs. 35-38).

The next week, Woodman called petitioner and told him that he had tried to warn him about the raid (Gov't Exh. 21R-1). That same night they met, and petitioner gave Woodman and Stinsman $100 (2 Tr. 88-89; Gov't Exh. 22R-1 at 20). Thereafter, Woodman and Stinsman periodically revealed selected pieces of FBI investigative information to petitioner or Narducci and informed them that the FBI was focusing more and more closely on their gambling activities (2 Tr. 92-93; 3 Tr. 7-9, 12, 18, 31, 39-40; Gov't Exhs. 29R-1, 33R-1 at 3-5, 34R-1 at 19-21; 40R-1, 39, 40, 43). On several occasions, the officers were paid an extra $100 for the information supplied (Gov't Exhs. 21, 23, 24, 27, 29).

In late February 1980, petitioner told Woodman that it had become too dangerous for them to be seen together and that someone else would have to deliver the monthly payments (Gov't Exh. 44R-1). On Monday evening March 3, at petitioner's direction, Woodman and Stinsman drove to a parking lot on Sixth Street (Gov't Exh. 47R-1; 3 Tr. 45). A few minutes later, Narducci drove by slowly and motioned to them. The officers followed and observed Narducci and Louis Teti sitting in Narducci's car. Teti threw a bag of money totalling $400 into the open window of the officers' car and walked toward 1214 7th Street (3 Tr. 45-49). Payments were made in a similar manner on Monday March 31 and Monday April 28. On March 31 Teti threw the money into the car (3 Tr. 52-57; Gov't Exhs. 49R-1, 50R-1). On April 28 Americo Buonacoure and Joseph Dupoldt were seen with Narducci shortly before the payment was made, and Dupoldt threw the money into the car (3 Tr. 57-59).

On May 27, Woodman and Stinsman waited in the parking lot for their payment as they had the previous month, but this time no one came (3 Tr. 60). On Monday, June 23, Woodman called Narducci at 1214 7th Street and reminded him that they had not received the previous month's payment (3 Tr. 60-62; Gov't Exh. 51R-1). Narducci instructed him to go to the appointed place that night, and this time Buonacoure delivered the $400 payment. Afterwards, the officers saw Buonacoure enter 1214 7th Street (3 Tr. 62-67; Gov't Exhs. 51R-1, 52R-1, 68A-68I). Later that same night, the FBI raided 1214 7th Street and executed a search warrant (4 Tr. 161). As the agents entered, they saw several men, including Narducci and Dupoldt, leave through the back door and climb over a wall in the yard (4 Tr. 162-163). As before, the agents seized numerous cards, including discarded 8's, 9's, and 10's, as well as a dealing shoe (4 Tr. 164-167). Photographs taken of the interior of the house showed a Coke machine, a cigarette machine, a case of plastic coffee cups, and a large amount of food (4 Tr. 170-174).

ARGUMENT

The decision of the court of appeals is correct and does not conflict with any decision of this Court or of any other court of appeals. Accordingly, no further review is warranted.

1. This Court has stated that 18 U.S.C. 1955 "proscribes any degree of participation in an illegal gambling business, except participation as a mere bettor" (*Sanabria* v. *United States*, 437 U.S. 54, 70-71 n.26 (1978). Petitioner contends (Pet. 6-12) that despite this guidance there is a conflict among the circuits concerning the proper test for determining

whether a person has "conducted" a gambling business within the meaning of 18 U.S.C. 1955. While the Tenth Circuit has concluded that a person must perform "a necessary function for the illegal gambling business" (*United States* v. *Boss*, 671 F.2d 396, 400 (10th Cir. 1982)), the Fifth, Seventh, and Eighth Circuits have employed a "necessary or helpful" test. *United States* v. *Colacurcio*, 659 F.2d 684, 688 (5th Cir. 1981), cert. denied, No. 81-1435 (Mar. 8, 1982); *United States* v. *Tucker*, 638 F.2d 1292, 1296 (5th Cir.), cert. denied, No. 80-2108 (Oct. 5, 1981); *United States* v. *Bennett*, 563 F.2d 879, 883 (8th Cir.), cert. denied, 434 U.S. 924 (1977); *United States* v. *Greco*, 619 F.2d 635, 638 (7th Cir. 1980). Petitioner claims (Pet. 11-12) that under the *Boss* test the evidence failed to show that five or more persons conducted the gambling business in this case. Petitioner's argument lacks merit.

First, it is by no means clear that the decisions of the circuits actually conflict. While the *Boss* court expressed disagreement with the "necessary or helpful" test, it distinguished the cases decided under that standard and approved the results reached in those decisions (671 F.2d at 400 & n.5).

More important, it is apparent that the evidence in this case proved the participation of five or more persons under either test. Narducci and petitioner obviously conducted the gambling business, as petitioner concedes (Pet. 11). He also concedes that Angelo Angelucci and Alfred Mazzucca, two doormen, may be counted as persons who conducted the business (Pet. 11).[1] But it was not necessary, as petitioner claims (Pet. 12), for the government to

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[1] Angelucci also delivered a $100 payment for Narducci to the police officers (8 Tr. 31-32; Gov't Exhs. 19, 40R-1).

rely on cooks, errand boys, the record owners of the properties involved, or other peripheral participants to satisfy the five-person requirement. In addition to the four persons noted above, there was ample evidence of the participation of several others who performed important functions connected with the gambling operation.

For example, Bernard Malseed was seen entering 803 Latona Street on March 25, 1979 (4 Tr. 64-65). He was searched during the FBI raid on the card game on July 14, 1979, and $2,281 was seized from him (4 Tr. 137). And on March 22, 1980, when two FBI agents asked to speak with someone in charge at 1214 South 7th Street, Malseed came to the door and led them inside (4 Tr. 156-159). Americo Buonacoure delivered the final bribery payment on June 23, 1980, and was seen entering the house at 1214 South 7th shortly before it was raided. He was also seen with Narducci going to or coming from the game on several occasions (3 Tr. 6, 14, 18, 58-59, 67), and Narducci himself emphasized Buonacoure's importance to him in a conversation with Officer Woodman (Gov't Exh. 29R-1 at 6; 3 Tr. 9). From this evidence, it was perfectly reasonable for the jury to conclude that both Malseed and Buonacoure were more than simple bettors, *i.e.*, that Malseed was a "deputy" who took charge in Narducci's absence and that Buonacoure was a messenger for Narducci who was closely associated with him and knew the purpose of the money he delivered.

Similarly, Joseph Dupoldt delivered one of the bribery payments on March 28, 1980 (3 Tr. 57-59); he was present at 1214 South 7th Street on March 22, 1980, and spoke with FBI agents (4 Tr. 157); and he was seen running away from the game with Nar-

ducci when the FBI raided 1214 7th Street (4 Tr. 162-163). Dupoldt was clearly more than just a trash collector, as petitioner suggests (Pet. 12).

Louis Teti delivered two of the bribery payments (3 Tr. 45-49, 52-57). Moreover, in a brief conversation with Woodman at the time of the March 31 payment, he said he would be the "regular" deliveryman and that the 27th of the month would be the date of the payments (Gov't Exh. 50R-1).

John Grande was still another person shown to have played a role in the conduct of the game. He made the first offer of money to the police when Woodman told Narducci to close down the game (2 Tr. 34; 4 Tr. 62-63) and he relayed messages between the officers and Narducci (2 Tr. 32, 37-38; 4 Tr. 63-64).

From all this evidence, there can be no doubt that at least five persons "conducted" the ziginette game, under either the "necessary" or the "necessary-or-helpful" standard. Thus, even assuming that there is a conflict among the circuits on this issue, this case presents no occasion for resolution of the conflict.

2. Petitioner claims (Pet. 13-15) that the government failed to prove the existence of an "enterprise" within the meaning of 18 U.S.C. 1962(c). He contends (Pet. 13-15) that the decision below conflicts with *United States* v. *Turkette*, 452 U.S. 576 (1981), because the proof allegedly did not establish the existence of "an entity separate and apart from the pattern of activity in which it engage[d]" (*id.* at 583). Because this contention involves merely the application of the legal principles of *Turkette* to the facts of the present case the court of appeals rendered no published opinion. In addition, petitioner's sentence on the RICO count was concurrent. Accord-

ingly, the contention does not merit review by this Court. The record demonstrates, moreover, that there was ample proof of the enterprise element.

In *Turkette*, this Court explained (452 U.S. at 583):

> The enterprise is an entity, for present purposes a group of persons associated together for a common purpose of engaging in a course of conduct. The pattern of racketeering activity is, on the other hand, a series of criminal acts as defined by the statute. 18 U.S.C. § 1961(1) (1976 ed., Supp. III). The former is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit. The latter is proved by evidence of the requisite number of acts of racketeering committed by the participants in the enterprise. While the proof used to establish these separate elements may in particular cases coalesce, proof of one does not necessarily establish the other.

Here, the enterprise alleged in the indictment was "a group of individuals associated in fact for the purpose of corruptly influencing and infiltrating the Philadelphia Police Department by offering, conferring and delivering bribes to police officers of the City of Philadelphia" (C.A. App. 5-6). The operation of the ziginette card game was alleged to have been "part of the affairs of the enterprise," and it was further alleged that the bribery was for the purpose of protecting those involved in the game from arrest (C.A. App. 6).

In its proof, the government showed both that there was "an ongoing organization" that had as one of its objectives that of bribing police officers and that "the various associates function[ed] as a continuing unit."

It may be that the indictment characterized the enterprise somewhat too narrowly by describing it only as an organization whose purpose was bribery instead of as a group that operated an illegal gambling business *and* conducted a well-organized bribery scheme in order to assure the continuation of the gambling. But it was clear from the RICO count as a whole and from the government's proof that the bribery and gambling were inextricably connected as dual objectives of the group. There was ample proof of an ongoing organization with a definite structure, and the organization not only engaged in bribery—the acts constituting the pattern of racketeering activity—but operated the illegal card game as well.

Frank Narducci stood at the core of the enterprise. He was the decisionmaker, the source of the bribery money, and the operator of the ziginette game (Gov't Exhs. 7R-1 at 2-3, 6-8, 10, 18, 12R-1 at 3, 22R-1 at 20, 29R-1 at 3, 31R-1 at 11, 35R-1 at 6, 45R-1 at 5, 47R-1 at 3-6). Petitioner acted as Narducci's principal intermediary in the bribery scheme. He explained the bribery agreement to the police officers (Gov't Exh. 7R-1 at 2-6, 10-14, 18) and relayed messages between Narducci and the officers (Gov't Exhs. 7R-1 at 7, 9, 14, 8R-2 at 5, 9R-1 at 2, 11R-1 at 3). In addition, petitioner met monthly with the police officers and personally delivered the bribe payments (Gov't Exhs. 14-20, 22, 23, 25, 26, 28, 30; 2 Tr. 46, 57, 79, 83, 89, 93, 99; 3 Tr. 11, 13, 23, 25, 30, 40). When petitioner was unavailable, other individuals associated with the ziginette game acted as intermediaries. Louis Teti, Joseph Dupoldt, and Americo Buonacoure delivered some of the later bribery payments (3 Tr. 48-49, 53-54, 58, 62-63), and they were also seen with Narducci on other occasions going to

or coming from the ziginette game (3 Tr. 6, 14, 18, 48-49, 58-59, 67; 4 Tr. 157, 161, 163). John Grande acted as a middleman and made the bribery overture to Officer Stinsman on November 6, 1978, in the presence of Narducci (2 Tr. 31-34). Grande also spoke with Stinsman on March 5, 1979, about interfering with the game (2 Tr. 38).

From all this evidence, particularly when it is viewed in the light most favorable to the government (*Glasser* v. *United States*, 315 U.S. 60, 80 (1942)), it is apparent that the prosecution amply proved not only that bribery payments were made, but that the bribery scheme was carried out by a structured organization with several criminal objectives.[2]

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[2] Petitioner also claims (Pet. 14-15) that the prosecution failed to prove that he participated in the affairs of the enterprise "through" a pattern of racketeering, as required by 18 U.S.C. 1962(c). Relying on *United States* v. *Nerone*, 563 F.2d 836 (7th Cir. 1977), cert. denied, 435 U.S. 951 (1978), he argues that the government proved only that the enterprise—the bribery association—facilitated the gambling operation, and not that the enterprise was facilitated by the card game or bribes. But the facts in *Nerone* bear no relation to those of the instant case.

In *Nerone*, the court found that there was "a total want of proof of the connection between the racketeering activities [gambling offenses] and the affairs of the [enterprise—a mobile home corporation]" (563 F.2d at 852). Here, on the other hand, the connection between the enterprise—a group associated in fact for the purpose of bribery—and the pattern of racketeering activity—acts of bribery—could hardly be clearer. It is apparent that petitioner participated in the enterprise's affairs, which naturally included bribery, through a pattern of racketeering activity, *i.e.*, bribery. Petitioner's claim (Pet. 15; emphasis in original) that the government was obligated "to prove that the *bribery* enterprise was facilitated by * * * the bribes" simply makes no sense. The term

3. Finally, petitioner contends (Pet. 15-18) that the government failed to prove the requisite connection between the enterprise and interstate commerce. He claims that the only evidence introduced to establish an involvement in interstate commerce relates to the ziginette card game and not to the enterprise charged in the indictment.

This argument is without merit. It ignores not only the plain language of the statute, but the case law as well. The statute requires that the enterprise must be one that is "engaged in, or the activities of which affect, interstate or foreign commerce * * *" (18 U.S.C. 1962(c)). The courts agree that this broad language indicates that only a minimal impact on interstate commerce suffices. *United States* v. *Barton*, 647 F.2d 224, 233 (2d Cir.), cert. denied,

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"facilitate" does not appear in the statute or in *Nerone*, and it is plainly not a synonym of the statutory term "through."

If petitioner is suggesting that the pattern of racketeering activity must benefit or advance the purpose of the enterprise, the courts are in agreement that such an interpretation of the word "through" was not intended by Congress. *United States* v. *Webster*, 669 F.2d 185 (4th Cir. 1982); *United States* v. *Welch*, 656 F.2d 1039, 1060-1062 (5th Cir. 1981); *United States* v. *Scotto*, 641 F.2d 47, 54 (2d Cir. 1980), cert. denied, 452 U.S. 961 (1981); *United States* v. *Elliott*, 571 F.2d 880, 899 n.23 (5th Cir.), cert. denied, 439 U.S. 953 (1978). Such an interpretation would exclude those cases in which the enterprise was either a governmental entity or a legitimate business or organization whose affairs were not benefited by the racketeering activity. There is nothing to suggest that Congress meant to exclude such situations from the Act's coverage. *United States* v. *Welch*, *supra*, 656 F.2d at 1061-1062. Moreover, even if that interpretation were correct, here the bribery payments furthered the activities of the association, such as the card game. In addition, it seems clear that each act of bribery helped to perpetuate the bribery association.

No. 80-6926 (Oct. 5, 1981); *United States* v. *Rone*, 598 F.2d 564, 573 (9th Cir. 1979), cert. denied, 445 U.S. 946 (1980); *United States* v. *Nerone*, *supra*, 563 F.2d at 850-851, 854. Moreover, the term "affect interstate or foreign commerce" appears in numerous federal statutes and has always been interpreted to reach to the constitutional limits. See, *e.g.*, *Perez* v. *United States*, 402 U.S. 146 (1971); *Katzenbach* v. *McClung*, 379 U.S. 294 (1964); *Stirone* v. *United States*, 361 U.S. 212 (1960). Thus, in RICO cases, it has been held that the requisite effect on interstate commerce was proved where a defendant who resided in New York purchased a house in New Jersey in connection with the illegal enterprise. *United States* v. *Mannino*, 635 F.2d 110, 118 (2d Cir. 1980). Where the enterprise was a county attorney's office, its interstate telephone calls, purchases of supplies and materials from outside the state, and investigations involving citizens of other states were held sufficient. *United States* v. *Altomare*, 625 F.2d 5, 7-8 (4th Cir. 1980). And in a case very similar to this one (*United States* v. *Allen*, 656 F.2d 964 (4th Cir. 1981)), the court held that the supplies used in the defendant's bookmaking operations, which originated outside the state, provided a sufficient interstate commerce nexus.

Petitioner apparently concedes (Pet. 16) that the gambling operation's involvement in interstate commerce was proved by evidence concerning the out-of-state origin of the playing cards and evidence concerning a bettor who arrived in an out-of-state car. But he contends (Pet. 16) that there was no evidence that the enterprise—the group associated to engage in bribery—affected interstate commerce. However, the statutory language demonstrates that proof of the ziginette game's contact with interstate commerce was enough. The statute refers to "any enterprise

engaged in, *or the activities of which affect*, interstate or foreign commerce * * *." 18 U.S.C. 1962(c) (emphasis supplied). Thus, this element has been satisfied by evidence that a car blown up in connection with an enterprise was insured by an interstate insurance carrier (*United States* v. *Barton*, *supra*, 647 F.2d at 234), by evidence that a company operated by a murder victim bought materials from outside the state (*United States* v. *Rone*, *supra*, 598 F.2d at 573), and by evidence that out-of-state insurance companies paid claims resulting from arson (*United States* v. *DiFrancesco*, 604 F.2d 769, 775 (2d Cir. 1979), rev'd on other grounds, 449 U.S. 117 (1980); see also *United States* v. *Martino*, 648 F.2d 367 (5th Cir. 1981), cert. denied, No. 81-907 (Apr. 26, 1982)). Here, as already noted, the ziginette game, which clearly affected interstate commerce, was described in the indictment as part of the affairs of the enterprise.

In addition, the government established the needed effect on interstate commerce with evidence concerning the police department's exchange of information with out-of-state agencies (1 Tr. 37-39).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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